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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,695	11/25/2003	Russell Bonaventura	LEAP:126US	6297
24041	7590	05/18/2005	EXAMINER	
SIMPSON & SIMPSON, PLLC 5555 MAIN STREET WILLIAMSVILLE, NY 14221-5406			PRITCHETT, JOSHUA L	
			ART UNIT	PAPER NUMBER
			2872	
DATE MAILED: 05/18/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

11A

Office Action Summary

Application No.

10/721,695

Applicant(s)

BONAVENTURA ET AL.

Examiner

Joshua L. Pritchett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☒ Claim(s) 6, 12 and 13 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

The abstract of the disclosure is objected to because the abstract includes legal language such as, "means."

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Correction is required. See MPEP § 608.01(b).

Claim Objections

Claims 6, 12 and 13 objected to because of the following informalities: claim 6 depends from claim 1, but includes the phrases "said intermediate portion", "said distal" and "said proximal portion." Claim 6 should be amended to depend from claim 5. Claims 12 and 13 depend from claim 6 and are objected to for the same reasons. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-7, 9, 11 and 14 rejected under 35 U.S.C. 102(b) as being anticipated by Domanik (US 6,118,581).

Regarding claim 1, Domanik discloses an apparatus for controlling a microscope stage assembly comprising a bidirectional ergonomic stage movement means operatively arranged to be detachably secured to the microscope stage assembly (col. 3 lines 14-20; col. 11 lines 44-50).

Regarding claim 5, Domanik discloses the bidirectional; ergonomic stage movement means comprises a distal portion, an intermediate portion and a proximal portion (Fig. 4).

Regarding claim 6, Domanik discloses the proximal portion is attached to the stage assembly, the intermediate portion connects the distal and proximal portions and the distal portion is disposed in space substantially perpendicular to the longitudinal axis of the stage assembly (Fig. 3).

Regarding claim 7, Domanik discloses the bidirectional; ergonomic stage movement means further comprises a gripping means operatively arranged to be detachably secured to the stage movement means (Fig. 3).

Regarding claims 9 and 14, Domanik discloses a rod with a plurality of grooves disposed in space substantially parallel to one another (Fig. 4). Fig. 4 shows that the grooves between elements 410, 404, 406 and 408 are substantially parallel to one another.

Regarding claim 11, Domanik discloses a one-piece, pre-formed; substantially solid rod with releasable attachment means (Fig. 4).

Claims 1, 2, 5-9, 12, 14, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Endo (US 4,749,270).

Regarding claim 1, Endo discloses a microscope stage assembly comprising a bidirectional, ergonomic stage movement means operatively arranged to be detachably secured to the microscope stage assembly (Figs. 2 and 9; abstract).

Regarding claim 2, Endo discloses a substantially solid, circular rod with releasable attachment means (Figs. 2 and 9).

Regarding claim 5, Endo discloses the bidirectional; ergonomic stage movement means comprises a distal portion, an intermediate portion and a proximal portion (Fig. 9).

Regarding claim 6, Endo discloses the proximal portion is attached to the stage assembly, the intermediate portion connects the distal and proximal portions and the distal portion is disposed in space substantially perpendicular to the longitudinal axis of the stage assembly (Fig. 9).

Regarding claim 7, Endo discloses the bidirectional; ergonomic stage movement means further comprises a gripping means operatively arranged to be detachably secured to the stage movement means (Fig. 9).

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Regarding claim 8, Endo discloses the stage movement means comprises a joystick (Fig. 9).

Regarding claims 9 and 14, Endo discloses a rod with a plurality of grooves disposed in space substantially parallel to one another (Fig. 9).

Regarding claim 12, Endo discloses a solid circular pole with grooves disposed substantially parallel to one another (Fig. 9).

Regarding claims 16 and 17, Endo discloses a microscope stage assembly comprising a bidirectional, ergonomic stage movement means operatively arranged to be detachably secured to the microscope stage assembly (Figs. 2 and 9; abstract). Endo further discloses the stage movement means comprises a joystick (Fig. 9).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Endo (US 4,749,270).

Regarding claim 4, Endo teaches the invention as claimed but lacks reference to the attachment means. It is extremely well known in the art to use screws or springed detents to releasably attach a mouse or joystick to a computer or mechanical port. Official Notice is taken. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the Endo invention include either screws or springed detents as the releasable attachment means as is known in the art for the purpose of maintaining a secure connection between the stage and the movement means while still being able to remove the movement means when the user desires.

Regarding claim 15, Endo teaches the gripping means comprises a rotatable plate (74) operatively arranged to be detachably secured to the distal portion of the stage movement means (Fig. 9). Endo lacks reference to the plate being square. It is well within the skill of one of ordinary skill in the art to change the shape of the rotatable from circular to square. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the Endo rotatable plate be square instead of circular for the purpose of allowing the user to better grip the plate and allow easier rotation of the plate.

Claims 3, 10 and 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Endo (US 4,749,270) in view of Harris (US 2005/0066751).

Regarding claim 3, Endo teaches the invention as claimed but lacks reference to a hollow tube. Harris teaches the inside of an ergonomic being hollow (Fig. 6). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the

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Endo invention include a hollow center as taught by Harris for the purpose of making the stage movement means lighter and easier to manipulate.

Regarding claim 10, Endo teaches the invention as claimed but lacks reference to protuberances. Harris teaches the use of a rod with a plurality of protuberances (160 and 170) disposed in space substantially parallel to one another (Fig. 1). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the Endo invention include the protuberances of Harris for the purpose of introducing reactive elements into the microscope observation beam path.

Regarding claim 13, Endo teaches the invention as claimed but lacks reference to tapering. Harris teaches the distal portion of the circular pole tapers at the end (Figs. 1 and 7). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the Endo invention taper as taught by Harris for the purpose of making the movement means more ergonomic.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Orthman (US 6,358,749) teaches that microscope stages can be directed in two dimensions by either a mouse or a joystick.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L. Pritchett whose telephone number is 571-272-2318.

The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JLP *JP*


DREW A. DUNN
SUPERVISORY PATENT EXAMINER